

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MANUEL SISNEROS,

Plaintiff,

vs.

Civ. No. 01-383 MCA/WWD ACE

STATE OF NEW MEXICO
CHILDREN, YOUTH & FAMILIES
DEPARTMENT,

Defendant.

MEMORANDUM OPINION AND ORDER

This matter comes before the court upon Defendant's Motion to Compel Discovery ["motion"] (Docket #31) filed January 8, 2002. Previously, I denied the motion without prejudice because copies of the sought discovery and responses thereto were not furnished to the Court as required by D.N.M.-LR Civ. 37.1. That situation has been corrected. Now, I will address the motion on the merits. Defendant seeks an Order compelling full and complete responses to Interrogatories 1, 2, 3, 5, 6, 8, 9, and 10; as well as full and complete responses to Requests for Production 1, 2, 3, 4, 6, 8, 9, 10, 11, 13, and 14. Defendant also seeks a calculation of plaintiff's damages as required under Fed. R. Civ. P. 26, and his medical records for the past five years citing D.N.M.-LR Civ. 26.3(d). Defendant seeks attorney fees in connection with the motion. Plaintiff, with very little specific elaboration, denies the various allegations in the motion. Plaintiff made no objections to the sought discovery. Plaintiff's responses to Interrogatories 1, 2, 3c, 6, 8, and 10 are deficient and unresponsive in various respects. For example, reference to other documents for information as was done in Interrogatories 1, 2, 6, and 9, is not stating in the interrogatory answer the information called for in the interrogatory. Plaintiff's responses to

Requests for Production 1, 2, 3, 4, 6, 8, 9, 10, 11, 13, and 14 are deficient or unresponsive in various respects. When documents responsive to a particular request are identifiable but are in the custody and control of Defendant and not in Plaintiff's possession or obtainable by him, Plaintiff may so state; otherwise, Plaintiff shall be expected to produce the records sought in the production requests.

WHEREFORE,

IT IS ORDERED that on or before March 15, 2002, Plaintiff shall serve on Defendant full and complete answers, with as much detail as is called for and which Plaintiff, in the exercise of due diligence, can produce, to Interrogatories 1, 2, 3c, 6, 8, and 10.

IT IS FURTHER ORDERED that on or before March 15, 2002, Plaintiff shall serve on Defendant full and complete responses to Requests for Production 1, 2, 3, 4, 6, 8, 9, 10, 11, 13, and 14, together with such documents which are in Plaintiff's possession or control; provided, however, that materials in the possession of Defendant which are not in Plaintiff's possession need not be produced if such circumstances of possession are described and Plaintiff specifically describes the documents referred to.

FINALLY, IT IS ORDERED that Defendant's request for attorney fees in connection with this motion is **DENIED WITHOUT PREJUDICE**.


UNITED STATES MAGISTRATE JUDGE